



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Regarding Policies, Procedures
and Rules for California Solar Initiative, the Self-Generation
Incentive Program, and Other Distributed Generation Issues

Rulemaking 06-03-004
(Filed March 2, 2006)

**THE GREENLINING INSTITUTE'S REQUEST FOR AWARD OF INTERVENOR
COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO D. 07-11-045**

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January 18, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures
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Incentive Program, and Other Distributed Generation Issues

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**THE GREENLINING INSTITUTE'S REQUEST FOR AWARD OF INTERVENOR
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**I. INTRODUCTION: AN AWARD OF FULL COMPENSATION IS APPROPRIATE
FOR THE GREENLINING INSTITUTE'S SUBSTANTIAL CONTRIBUTIONS
TO D. 07-11-045**

Pursuant to the California Public Utilities Commission ("CPUC" or "Commission") Code § 1804 and Rules of Practice and Procedure 17.3 and 17.4, the Greenlining Institute ("Greenlining") respectfully files a request for award of intervenor compensation in rulemaking 06-03-004. Greenlining hereby submits that it meets all criteria and requirements to receive compensation for its substantial contributions to D. 07-11-045.

Throughout the proceeding, Greenlining consistently and substantially contributed to the Commission's final decision through strong and unique advocacy for extending the benefits of the solar subsidies available via the California Solar Initiative ("CSI") to low income and minority communities in California. This contribution is well reflected in the Commission's decision which provides, "full subsidies for one kilowatt (kW) solar energy systems to existing owner-occupied households that qualify as extremely or very low income, and partial subsidies for solar energy systems to other qualifying owner-occupied low income homes."¹ Moreover, Greenlining made evident the importance of working with private sector banks or city and county housing agencies to provide low-income single family

¹ Decision 07-11-045, November 16, 2007, at 2; *see also*, *Id.* at 11 ("A full subsidy to the most needy low-income households also addresses Greenlining's suggestion to give priority to these households.")

homeowners financing packages and explore flexible loan options.² Further, Greenlining's recommendation, regarding the need to include within the CSI a mechanism for driving economic development via workforce development and job training initiatives in California's low income communities was well taken, as shown by the ALJ's decision to "strongly encourage entities interested in becoming the Program Manager to incorporate a workforce development and job training plan into their proposed program implementation plan."³ Furthermore, Greenlining added substantial value throughout the proceeding, including but not limited, recommendations regarding: 1) the total budget amount; 2) budget allocation; 3) requirements for program eligibility; 4) the need for independent program evaluation; 5) the criteria for choosing a program manager; 6) the importance of culturally competent marketing and outreach measures; and 7) the need for adequate consumer protections. Additionally, Greenlining initiated meetings with Investor Owned Utilities ("IOUs", CPUC staff, interested community based organizations and faith based organizations, some of the states largest financial institutions, and worked with other intervenors to formulate joint proposals.

In addition to raising the issues discussed *supra*, Greenlining played a central role at every point within the proceeding. For example, Greenlining filed comments, worked with community-based organizations, engaged in extensive research, participated in proceeding workshops and all party meetings. Given its distinctive and highly efficient role and that no other party played such a role, Greenlining believes that full compensation is appropriate. Moreover, Greenlining submits that based on Commission precedent, *full* compensation is proper since intervenors like Greenlining can make significant contributions to proceedings, even if the Commission chooses not to act on or adopt all of those intervenor's specific recommendations. Greenlining respectfully submits that an award of full compensation in the amount of \$13683.60 is appropriate given Greenlining's unique and efficient role in this proceeding.

² Id. at 8.

³ Id. at 12.

II. DISCUSSION: GREENLINING MEETS ALL STATUTORY REQUIREMENTS TO RECEIVE INTERVENOR COMPENSATION FOR ITS SUBSTANTIAL CONTRIBUTIONS TO THIS PROCEEDING

The Commission's intervenor compensation program, enacted in Public Utilities Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings and meets certain criteria outlined. Greenlining submits that it is entitled to obtain an intervenor compensation award because it satisfies all applicable procedures and criteria.

A. GREENLINING FILED OF A SUFFICIENT NOTICE OF INTENT TO CLAIM COMPENSATION WITHIN 30 DAYS OF THE PREHEARING CONFERENCE

Greenlining submits that it has met the CPUC rule requiring timely filing of a Notice of Intent ("NOI") in this proceeding. Greenlining filed its NOI to claim intervenor compensation on April 12, 2006. Further, Administrative Law Judge ("ALJ") Dorothy J. Duda's found on May 16, 2006 that, "Greenlining is found eligible for compensation in this [CSI] proceeding.

B. GREENLINING IS A PARTICIPANT REPRESENTING CONSUMERS, CUSTOMERS, OR SUBSCRIBERS OF A UTILITY SUBJECT TO THE JURISDICTION OF THE COMMISSION

Greenlining is a participant representing consumers, customers, or subscribers of a utility subject to the jurisdiction of the Commission.⁴ Moreover, the Commission has determined that Greenlining is a Category 3 customer as defined in CPUC Code § 1802(b).⁵ Greenlining is a formally organized group authorized, pursuant to its articles of incorporation or bylaws, to represent the interests of residential

⁴ See ALJ Duda's May 16, 2006 ruling in this proceeding, "Greenlining meets the third definition of customer, as defined in § 1802(b)(1)(C)."

⁵ See D.06-08-030/R.05-04-005

customers and small commercial electric customers. Greenlining's members and constituents are purchasers of telecommunications and energy services from utilities in California, qualifying Greenlining to file as "customers" pursuant to CPUC Code § 1802(b).

In compliance with D. 98-04-059, Conclusion of Law 5 and Finding of Fact 12, Greenlining estimates that it represents a constituency that is divided 75% and 25% between residential customers and small business customers, respectively. These percentages represent Greenlining's best estimates only. Article II, Section 17 of Greenlining's by-laws authorizes it to represent the "interests of low income communities, minorities, and residential ratepayers" before regulatory agencies and courts.

Greenlining and its individual coalition members represent the interests of those who have traditionally been marginalized or excluded from the public utility process: minority, low-income, inner city, and other vulnerable and underserved communities.⁶ Furthermore, Greenlining represents customer interests that would otherwise be unrepresented or underrepresented before this Commission. Greenlining is unique in that it brings to the table the perspectives, experiences, and interests of minority, low-income, inner city, and other vulnerable and underserved communities.

⁶ The Greenlining Coalition includes but is not limited to the following groups: Allen Temple Baptist Church; American GI Forum; Antioch Baptist Church; Asian Business Association; Black Business Association; California Hispanic Chambers of Commerce; California Journal for Filipino Americans; California Rural Legal Assistance; CHARO Community Development Corporation; Chicana/Latina Foundation; Chicano Federation, San Diego; Council of Asian American Business Association; Economic Business Development; El Concilio of San Mateo County; Filipino-American Political Association; First AME Church, Los Angeles; Hermandad Mexicana Nacional; Hispanic Chamber of Commerce; Hmong American Political Association; KHEIR; Latin Business Association; Latino Issues Forum; Mabuhay Alliance of San Diego; Mexican-American Grocers Association; Mexican-American Political Association; Mission Language & Vocational School; National Federation of Filipino American Associations; Nehemiah Ministries; Oakland Citizens Committee for Urban Renewal (OCCUR); Orange County Minority Business Council; Phoenix Urban League; San Francisco Black Chamber of Commerce; Search to Involve Filipino-Americans; Southeast Asian Community Center; TELACU; West Angeles Church of God in Christ; and West Coast Black Publishers Association.

C. GREENLINING FILED ITS REQUEST FOR AWARD OF COMPENSATION IN A TIMELY MANNER

On November 19, 2007, the Commission issued Decision 07-11-045. Greenlining files and serves this request for a compensation award on January 18, 2008, and thus meets the requirements of § 1804(c) by filing within 60 days of the Commission's final decision.

D. GREENLINING DEMONSTRATES SIGNIFICANT FINANCIAL HARDSHIP

In accordance with CPUC Code § 1804(a)(2)(B), Greenlining notes that the requisite finding of financial hardship was made within the last year, when the Commission found, that Greenlining, "satisfied all the procedural requirements necessary to make their requests for compensation in this proceeding." This included a finding that Greenlining meet CPUC Code § 1804(a)(2)(B) requiring a showing of financial hardship.⁷

E. GREENLINING MADE A "SUBSTANTIAL CONTRIBUTION" TO THIS PROCEEDING, THROUGH THE COMMISSION'S ADOPTION OF GREENLINING'S CONTENTIONS AND RECOMMENDATIONS

As discussed above, Greenlining made a "substantial contribution" to D. 07-11-045 as defined by CPUC Code § 1802(i):

"Substantial contribution" means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

⁷ See D.06-08-030/R.05-04-005 (May 25, 2007)

Greenlining was actively involved throughout this proceeding by: 1) filing opening and reply comments; 2) engaging in extensive legal research; 3) participating in proceeding workshops; 4) providing comments on the proposed decision to the Commission; 5) meeting with IOUs; 6) meeting with Commission advisors; 7) meeting with other intervenors to discuss possible joint proposals; 8) meeting with community based organizations and faith based organizations serving low-income and minority rate payers; and 9) meeting with large financial institutions to discuss possible financing strategies to increase access by low income Californians to solar technologies.

Under the standard set by § 1802(i) Greenlining made substantial contributions to this proceeding, in that Greenlining was the *only* party to advocate exclusively on behalf of low-income and minority communities recommending the Commission: 1) increase access by low income communities to the benefits of the California Solar Initiative; 2) contract with single, culturally competent, statewide entity as the CSI Program Manager; 3) structure the programs “sweat equity” requirement to be inclusive rather than exclusive; 4) ensure transparency in the CSI by enacting specific and regular evaluation and measurement criteria; 5) use the CSI as an mechanism for advancing economic and environmental sustainability in California through workforce training and development programs and 6) ensure greater equity in the overall CSI program.

Without Greenlining’s intervention in the proceeding, the Commission would not have addressed the above-defined issues, of critical importance to underserved communities. For example, Greenlining was the intervenor to address the frightening potential that exists for *widening* the gap between those who have access to clean energy and those who do not. Moreover, Greenlining was the only intervenor who recommended specific strategies for concurrently improving ease of access to and the affordability of photovoltaic panels.

Furthermore, although other parties may have raised similar issues to Greenlining, Greenlining is not seeking compensation for advocacy that could be considered duplicative under the Commission

standard. Additionally, Greenlining contributed to this proceeding in a manner that was highly productive, especially in light of the low cost of Greenlining's participation. The Commission has held that "productivity" concerns the party's efficiency and reasonableness in terms of cost of the participation.⁸

The cost of Greenlining's participation in this proceeding is modest and, for several reasons, quite reasonable. First, Greenlining was highly efficient as detailed below. Second, Greenlining's in-house staff is requesting compensation for 74.5 hours of work, which was spent over the course of this proceeding. This includes the time spent researching, developing innovative strategies, preparing and filing comments, reviewing other parties' filings and Commission rulings.⁹ Fourth, the hourly rates requested, as detailed below, are more than reasonable as they are below-market rates.

F. GREENLINING'S CLAIMED FEES AND COSTS ARE REASONABLE, NECESSARY FOR, AND RELATED TO THE SUBSTANTIAL CONTRIBUTION, COMPARABLE TO THE MARKET RATES PAID TO OTHERS WITH COMPARABLE TRAINING AND EXPERIENCE, AND PRODUCTIVE

1) THE HOURS CLAIMED BY GREENLINING ARE REASONABLE

Greenlining requests compensation in the amount of \$13,683.60 for the time reasonably devoted to this proceeding, as well as for the expenses it incurred for its participation. Given the substantial contributions (made in a productive, efficient, and non-duplicative manner) Greenlining made to the proceeding, full compensation is appropriate. Furthermore, even where the contributions were not wholly adopted by the decision, these contributions were beneficial to the Commission.¹⁰

⁸ See D. 00-02-044 at 14

⁹ See *supra* and related attachment

¹⁰ See D. 04-08-025

Provided below is a summary table and explanation of hours claimed, hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by Greenlining's attorneys, and staff are provided in Exhibit A through C to this filing. The data below demonstrates, the staff's work was performed very efficiently. All of the work was delegated to the appropriate members of Greenlining's team as described in more detail in below.

Attorney and Advocate Fees	Year	Hours	Hourly Rate	Total
Thalia N.C. Gonzalez	2007	14.25	230	\$3277.50
Jesse W. Raskin	2007 ¹¹	42.75	190	\$8122.50
Adam Briones	2007	17.5	130	\$2275.00
Subtotal				\$13,675.00
Direct Expenses				\$8.60
Postage costs				\$8.60
Subtotal				
TOTAL				\$13,683.60

The daily listings of the specific tasks performed by Greenlining's Senior Legal Counsel and Director of the Consumer Protection Program, Thalia N. C. Gonzalez, in connection with this proceeding are attached and labeled as Exhibit A. Ms. Gonzalez provided her expertise and policy input on all communications with the Commission and with other parties.

The daily listings of specific tasks performed by Greenlining Legal Counsel Jesse W. Raskin in connection with this proceeding are attached and labeled as Exhibit B.

The daily listing of specific tasks performed by Greenlining's Housing Program Manager, Adam Briones, are attached and labeled as Exhibit C.

The work done by Greenlining's attorneys and staff, as a team and as individuals, demonstrates that the hours claimed are reasonable, particularly given the scope of this proceeding.

¹¹ Jesse W. Raskin's 2008 hours are billed herein at his 2007 rate.

2) GREENLINING'S HOURLY RATES ARE REASONABLE AND BELOW-MARKET

The reasonableness of the proposed hourly rates for Greenlining's attorney, and staff are supported by various factors including market rates, their experience, their areas of expertise, and their previous work before this Commission. Greenlining submits to the Commission that of equal and related importance to the nature and reasonableness of Greenlining's proposed hours is that the hourly rates for experienced attorneys, experts and advocates, as allowed by this Commission, grossly understate fair market value.¹²

For example, if this Commission paid intervenor compensation at a fair market value Ms. Gonzalez would receive an hourly rate of \$320 or more. If the Commission compensated Mr. Raskin at the rates that first year associates at the law firms employed by the utilities were being compensated, he would receive an hourly rate of \$230 or more. Given these fair market rates Greenlining's compensation should be approximately \$16667.50 and not a mere \$13675.00.

While Greenlining does not seek any additional compensation based on the underestimation of the fair market rate of attorneys and experts, it does wish to call this issue to the attention of the Commission. Greenlining submits the issue of fair market value and compensation is particularly important to this proceeding. Therefore, Greenlining's request for compensation, should any of the parties or the Commission believe that some or all of Greenlining's hours should be disallowed, should be reviewed within this context.

THALIA N.C. GONZALEZ'S HOURLY RATE

Ms. Thalia Gonzalez is Senior Legal Counsel and Director of the Consumer Protection Program at the Greenlining Institute. Prior to joining Greenlining, Ms. Gonzalez was an associate at the law firms

¹² See D.07-01-009; Since the beginning of 2007, compensation for attorneys in California has risen by approximately \$35,000. Based on these salaries the hourly rate for a first year associate is \$245 per hour. See The Recorder articles May 7, 2007, May 8, 2007 and May 11, 2007.

of Reed Smith LLP and Meagher & Geer PLLP. Ms. Gonzalez also worked for the American Civil Liberties Union as a statewide Legal Director.

Ms. Gonzalez is currently an adjunct faculty member in the School of Public Program at Arizona State University and teaches e-seminars on public policy, law and social policy. Ms. Gonzalez has been a faculty member since 2006. Ms. Gonzalez also serves as a liaison for University of California, Berkeley School of Natural Resources for environmental justice seminars.

Ms. Gonzalez holds a Bachelor of Arts in Anthropology from Arizona State University, graduating summa cum laude and a Juris Doctor from Northwestern University School of Law.

Based on her experience and contributions to this proceeding, a 2007 rate of \$230 for Ms. Gonzalez is quite reasonable and consistent with the rates awarded by the Commission.

JESSE RASKIN'S HOURLY RATE

Mr. Raskin is a Legal Counsel at the Greenlining Institute. Mr. Raskin holds a Juris Doctor from the University Of San Francisco School Of Law and a Bachelor of Arts in Anthropology and Sociology from Lewis and Clark College in Portland, Oregon.

During law school, Mr. Raskin served as a judicial extern the Honorable Maria-Elena James, Federal Magistrate, and as law clerk at the U.S. Attorney's Office. Prior to attending law school, Mr. Raskin was employed as policy analyst in the Superintendent's Office of the San Francisco Unified School District.

Based on his experience and contributions to this proceeding, a 2007 rate of \$190 for Mr. Raskin is quite reasonable and consistent with the rates awarded by the Commission.

ADAM BRIONES' HOURLY RATE

Mr. Briones is a Program Manager at the Greenlining Institute. Prior to joining Greenlining, Mr. Briones attended UC Santa Cruz and received a Bachelor of Arts in Cultural Anthropology. While at the Greenlining Institute Mr. Briones has worked extensively in the field of affordable housing development

with an emphasis on the inclusion of green building techniques and renewable energy sources for low and moderate income first time homebuyers.

Based on his experience and contributions to this proceeding, a 2007 rate of \$130 for Mr. Briones is quite reasonable and consistent with the rates awarded by the Commission.

III. CONCLUSION: GREENLINING IS ENTITLED TO A FULL AWARD OF INTERVENOR COMPENSATION IN THE AMOUNT OF \$13683.60 FOR SUBSTANTIAL CONTRIBUTIONS TO D. 07-11-045

Greenlining has met all of the requirements of CPUC Code § 1801 et seq. Greenlining also has satisfied the requirements of achieving customer status, demonstrating financial hardship, and providing all required information in this document. Furthermore, even though the Commission did not wholly adopt all of Greenlining's recommendations, its numerous contributions were beneficial to the Commission.

Therefore, Greenlining respectfully submits it is entitled to full intervenor compensation in the amount of \$13683.60.

Dated: January 18, 2008

Respectfully submitted,

/s/ Thalia N.C. Gonzalez
Thalia N.C. Gonzalez
The Greenlining Institute

/s/ Jesse W. Raskin
Jesse W. Raskin
The Greenlining Institute

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Rulemaking 06-03-004
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VERIFICATION

I, Thalia Gonzalez, am Senior Legal Counsel of the Greenlining Institute and am authorized to make this verification on its behalf. The statements in the foregoing document entitled:

**THE GREENLINING INSTITUTE'S REQUEST FOR AWARD OF INTERVENOR
COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO D. 07-11-045**

and dated January 18, 2008 are true of my own knowledge, except as to the matters which are therein stated on information and belief and as to those matters I believe them to be true.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed January 17, 2008 at Berkeley, California.

By: /s/ Thalia N.C. Gonzalez
Thalia N.C. Gonzalez
Senior Legal Counsel
The Greenlining Institute

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CERTIFICATE OF SERVICE

I, Jesse W. Raskin am 18 years of age or older and a non-party to the within proceeding. I am a resident and citizen of the State of California with the business address at the Greenlining Institute of 1918 University Avenue, Second Floor, Berkeley, CA 94704 and telephone number of 510-926-4002.

On January 18, 2008, I caused the following document:

**THE GREENLINING INSTITUTE'S REQUEST FOR AWARD OF INTERVENOR
COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO D. 07-11-045**

to be served upon all interested parties of record in R. 06-03-004 named in the official service list via e-mail to those whose e-mail address is listed in the official service list and via mail to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on January 16, 2008.

/s/ Jesse W. Raskin

Jesse W. Raskin

EXHIBIT A:

HOURS FOR THALIA N.C. GONZALEZ

10/18/07: review opinion establishing single-family low-income incentive program within the California Solar Initiative (3.0)

10/22/07: prepare outline of Greenlining Institute opening comments on opinion establishing single-family low-income incentive program within the California Solar Initiative (1.75)

10/23/07: meet with A. Briones and J. Raskin regarding opening comments on opinion establishing single-family low-income incentive program within the California Solar Initiative (1.0)

11/2/07: review and edit opening comments of the Greenlining Institute on opinion establishing single-family low-income incentive program within the California Solar Initiative (3.25)

11/9/07: review and edit reply comments of the Greenlining Institute on opinion establishing single-family low-income incentive program within the California Solar Initiative (2.5)

11/12/07: review and edit reply comments of the Greenlining Institute on opinion establishing single-family low-income incentive program within the California Solar Initiative (1.75)

11/13/07: review and edit reply comments of the Greenlining Institute on opinion establishing single-family low-income incentive program within the California Solar Initiative (1.0)

EXHIBIT B:

HOURS FOR JESSE W. RASKIN

10/23/07: meet with A. Briones and T. Gonzalez regarding opening comments on opinion establishing single-family low-income incentive program within the California Solar Initiative (1.0)

11/2/07: review opinion establishing CSI single-family low-income incentive program (4.0 hrs)

11/2/07: outline opening comments on proposed decision (2.25 hrs)

11/5/07: draft opening comments on proposed decision (3.5 hrs)

11/6/07: edit and file opening comments on proposed decision (4.0 hrs)

11/9/07: review other parties opening comments (3.5 hrs)

11/11/07: outline reply comments on proposed decision (3.0 hrs)

11/12/07: draft reply comments on proposed decision (4.25 hrs)

11/13/07: edit and file reply comments on proposed decision (3.0 hrs)

11/21/07: Discussion with financial institutions regarding low income solar loan programs (2.5 hrs)

01/15/08: Reviewing D. 07-11-045 (3.5 hrs)

01/16/08: Drafting request for intervenor compensation (3.75 hrs)

01/18/08 Drafting, editing, and filing request for intervenor compensation (4.5 hrs)

EXHIBIT C:

HOURS FOR ADAM BRIONES:

10/23/07: meet with T. Gonzalez and J. Raskin regarding opening comments on opinion establishing single family low-income incentive program within the California Solar Initiative (1.0)

11/04/07: review opinion establishing CSI single-family low-income incentive program (2.5)

11/05/07: review, edit, and discuss Greenlining's opening comments on proposed decision (1.5 hrs)

11/09/07: review other parties opening comments (3.5 hrs)

11/12/07: review, edit, and discuss Greenlining's reply comments on proposed decision (1.5 hrs)

11/21/07: discussion with financial institutions regarding low income solar loan programs (2.5 hrs)

01/15/08: review D. 07-11-045 (3.5 hrs)

01/18/08: review, edit, and discuss Greenlining's request for intervenor compensation (1.5 hrs)

Service List for R. 06-03-004

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